

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2661

Introduced by Assembly Member Bradford

February 21, 2014

An act to add Article 3.7 (commencing with Section 87375) to Chapter 7 of Title 9 of the Government Code, and to repeal and add Section 25205 of the Public Resources Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 2661, as amended, Bradford. Political Reform Act of 1974: conflicts of ~~interests~~: *interest*: Energy Commission.

The Political Reform Act of 1974 prohibits a public official from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the public official knows or has reason to know he or she has a financial interest. The act also imposes certain restrictions on the postgovernmental employment and activities of certain public officials. The act is administered and enforced by the Fair Political Practices Commission.

Existing law establishes the State Energy Resources Conservation and Development Commission, commonly known as the Energy Commission. Existing law prescribes certain qualifications for members of the Energy Commission, including a prohibition against receiving a substantial portion of income from specified energy-related entities in the 2 years preceding appointment to the Energy Commission. Existing

law prohibits members of the Energy Commission from being employed by an electric utility or applicant or, within 2 years after the member ceases to be a member of the Energy Commission, a person who engages in the sale or manufacture of a major component of a facility. Existing law prohibits a member of the Energy Commission from holding any other elected or appointed public office or position, except as specified. Existing law prohibits persons with specified relationships to a member or employee of the Energy Commission from appearing in proceedings and other matters in which the Energy Commission is a party or has a direct and substantial interest.

This bill would repeal these qualification and conflict-of-interest requirements for members and employees of the Energy Commission and recast them within the act. The bill would authorize the Fair Political Practices Commission to exempt a member or employee of the Energy Commission from the application of certain of these provisions ~~after a finding~~ *if it finds* that the member's or employee's interest is not sufficiently substantial to affect the integrity of services expected from the member or employee, as specified.

A violation of the act is punishable as a misdemeanor. By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 3.7 (commencing with Section 87375) is
- 2 added to Chapter 7 of Title 9 of the Government Code, to read:

1 Article 3.7. Energy Commission Conflicts of ~~Interests~~ *Interest*

2
3 87375. (a) For purposes of this section, the following terms
4 have the following meanings:

5 (1) “Community choice aggregator” has the same meaning as
6 set forth in Section 331.1 of the Public Utilities Code.

7 (2) “Electrical corporation” has the same meaning as set forth
8 in Section 218 of the Public Utilities Code.

9 (3) “Electric service provider” has the same meaning as set forth
10 in Section 218.3 of the Public Utilities Code.

11 (4) “Energy Commission” means the State Energy Resources
12 Conservation and Development Commission established pursuant
13 to Section 25200 of the Public Resources Code.

14 (5) “Facility” means the structure or equipment necessary for
15 generating, transmitting, or distributing electricity, including
16 electric transmission lines and thermal, wind, hydroelectric, and
17 photovoltaic plants.

18 (6) Notwithstanding paragraph (2) of subdivision (b) of Section
19 82030, for purposes of this section, “income” includes salary and
20 reimbursement for expenses or per diem, and social security,
21 disability, or other similar benefit payments received from a state,
22 local, or federal government agency, and reimbursement for travel
23 expenses and per diem received from a bona fide nonprofit entity
24 exempt from taxation under Section 501(c)(3) of the Internal
25 Revenue Code.

26 (7) “Load serving entity” means ~~a person, including an electrical~~
27 ~~corporation, electric service provider, or community choice~~
28 ~~aggregator, who sells or provides, or is authorized to sell or~~
29 ~~provide, or a person who has received a substantial portion of his~~
30 ~~or her income, directly or indirectly, from selling or providing~~
31 electricity to end users located in the state.

32 (8) “Major component” means any product or equipment integral
33 to facility construction or operation or to electrical generation,
34 transmission, or distribution.

35 (9) “Person” has the same meaning as set forth in Section 82047
36 and includes a city, county, public district or agency, the state or
37 any department or agency thereof, and the United States or any
38 department or agency thereof.

39 (b) An individual shall not be a member of the Energy
40 Commission if, during the two years prior to appointment to the

1 Energy Commission, the individual received a substantial portion
2 of his or her income, directly or indirectly, from any of the
3 following:

4 (1) A load serving entity.

5 (2) A person engaged in, or authorized to engage in, generating,
6 ~~transmitting, or distributing electricity in the state.~~ *who has*
7 *received a substantial portion of his or her income, directly or*
8 *indirectly, from either of the following:*

9 (A) *Generating, transmitting, or distributing electricity in the*
10 *state.*

11 ~~(3)~~

12 ~~(B) A person who engages in the~~ *The* sale or manufacture of
13 any major component of a facility located in the state.

14 (c) Except as provided in Section 25202 of the Public Resources
15 Code, and subject to the prohibitions of Section 1099 of the
16 Government Code, a member of the Energy Commission shall not
17 hold any other elected or appointed public office or position.

18 (d) A member or employee of the Energy Commission shall not
19 maintain a relationship as a partner, employer, employee, or
20 consultant with a person who acts as an attorney, agent, or
21 employee for a person other than the state in connection with a
22 judicial or other proceeding, hearing, application, request for ruling,
23 or other determination; contract; claim; controversy; study; plan;
24 or other particular matter in which the Energy Commission is a
25 party or has a direct and substantial interest.

26 (e) If the Fair Political Practices Commission finds that the
27 interest of a member or employee of the Energy Commission, as
28 appropriate, in income described in subdivision (b), in holding an
29 office or position described in subdivision (c) that is not otherwise
30 prohibited by Section 1099, or in a relationship described in
31 subdivision (d) is not sufficiently substantial to affect the integrity
32 of services that the state may expect from the member or employee
33 with respect to the Energy Commission, the subdivision to which
34 the Fair Political Practices Commission's findings pertain shall
35 not apply to that member or employee in that instance.

36 SEC. 2. Section 25205 of the Public Resources Code is
37 repealed.

38 SEC. 3. Section 25205 is added to the Public Resources Code,
39 to read:

1 25205. Members and employees of the commission shall be
2 subject to Section 87375 of the Government Code.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SEC. 5. The Legislature finds and declares that this bill furthers
13 the purposes of the Political Reform Act of 1974 within the
14 meaning of subdivision (a) of Section 81012 of the Government
15 Code.